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68TH CONGRESS,
1ST SESSION.

S. 726.

*Title from verso
of P 11.*

IN THE SENATE OF THE UNITED STATES.

DECEMBER 10, 1923.

Mr. BURSUM introduced the following bill; which was read twice and referred
to the Committee on Public Lands and Surveys.

U. S. Laws, statutes, etc.
"**A BILL**

To quiet the title to lands within Pueblo Indian land grants, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That in order to quiet title to various lots, parcels and tracts
4 of land in the State of New Mexico for which claim shall be
5 made by or on behalf of the Pueblo Indians of said State as
6 hereinafter provided, the United States of America, in its
7 sovereign capacity as guardian of said Pueblo Indians shall,
8 by its Attorney General, file in the district court of the United
9 States for the district of New Mexico, its bill or bills of
10 complaint with a prayer for discovery of the nature of any
11 claim or claims of any kind whatsoever adverse to the
12 claim of said Pueblo Indians, as hereinafter determined.

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1 SEC. 2. That there shall be and hereby is established a
2 board to be known as "Pueblo Lands Board" to consist of
3 the Secretary of the Interior, the Attorney General, and a
4 third member to be appointed by the President of the United
5 States. The board shall be provided with suitable quarters
6 in the city of Santa Fe, New Mexico, and shall employ such
7 clerical assistance, interpreters and stenographers with such
8 compensation as the Attorney General shall deem adequate,
9 and it shall be provided with such necessary supplies and
10 equipment as it may require on requisitions to the Depart-
11 ment of Justice. The compensation and allowance for travel
12 and expenses of the member appointed by the President shall
13 be fixed by the Attorney General.

14 It shall be the duty of said board to investigate, deter-
15 mine, and report and set forth by metes and bounds, illus-
16 trated where necessary by field notes and plats, the lands
17 within the exterior boundaries of any land granted or con-
18 firmed to the Pueblo Indians of New Mexico by any author-
19 ity of the United States of America, or acquired by said
20 Indians as a community by purchase or otherwise, title to
21 which the said board shall find not to have been extinguished
22 in accordance with the provisions of this Act, and the board
23 shall not include in their report any claims of non-Indian
24 claimants who, in the opinion of said board after investiga-
25 tion, hold and occupy lands of which they have had adverse

1 possession within the terms of the limitations or either of
2 them prescribed in section 4 of this Act: *Provided, how-*
3 *ever,* That if all the members of the board shall not agree
4 that the Indian title is not extinguished to any tract or
5 tracts of land, then such tract or tracts of land shall be
6 included in the lands which shall be claimed for said Indians.

7 The board shall report upon each pueblo as a sepa-
8 rate unit and shall complete its report upon one pueblo
9 before taking up another, and upon the completion of each
10 report one copy shall be filed with the United States dis-
11 trict court for the district of New Mexico, one with the At-
12 torney General of the United States, one with the Secre-
13 tary of the Interior, and one with the Board of Indian Com-
14 missioners.

15 That in the event there is submitted to the Pueblo
16 Land Board any claim or claims originating during the
17 twenty-year period provided for in subsection (a) of sec-
18 tion 4 of this Act under and by virtue of a deed or deeds,
19 or a contract for a deed or deeds, entered into by the au-
20 thorities of any pueblo with such claimant or claimants
21 in behalf of such pueblo then the board shall not report
22 such claim or claims for suit to quiet title, but shall investi-
23 gate all the circumstances surrounding the transaction, the
24 value of the improvements upon and extent of use of the land
25 claimed, and shall report the facts fully to the Secretary

1 of the Interior, who in turn shall report the same to Congress
2 with his recommendations in the premises: *Provided, how-*
3 *ever,* That if after one year from the date of the transmittal
4 to Congress of the recommendation by the Secretary of the
5 Interior no action has been taken pursuant thereto, then the
6 claimant or claimants shall be served with process in the
7 appropriate suit to quiet title and his or their rights shall
8 be litigated in the same manner as would any other claim
9 under the provisions of this Act: *And provided further,* That
10 if it shall appear that any of the claims above mentioned
11 in this paragraph originated prior to June 20, 1910, such
12 claims shall, if the governing authorities of the pueblo
13 interested in the premises shall file with the said board their
14 written approval thereof, be recognized as valid and dis-
15 posed of in the manner provided for the disposition of the
16 claims included in the provisions of section 10 of this
17 Act.

18 SEC. 3. That upon the filing of each report by the
19 said board, the Attorney General shall cause to be filed in
20 the United States district court for the district of New Mexico,
21 as provided in section 1 of this Act, a suit to quiet title to
22 the lands described in said report as Indian lands, the
23 Indian title to which is not extinguished.

24 SEC. 4. That all persons other than Pueblo Indians
25 claiming title to, or ownership of any lands involved in any

1 such suit, or suits, may in addition to any other legal or
 2 equitable defenses which they may have, plead limitation of
 3 action, as follows, to wit:

4 (a) That in themselves, their ancestors, grantors,
 5 privies, or predecessors in interest or claim of interest, they
 6 have had open, notorious, actual, exclusive, continuous, ad-
 7 verse possession of the premises claimed for more than twenty
 8 years next preceding the passage of this Act, under color of
 9 title.

10 (b) That in themselves, their ancestors, grantors,
 11 privies, or predecessors in interest or claim of interest, they
 12 have had open, notorious, actual, exclusive, continuous, ad-
 13 verse possession of the premises claimed for more than thirty
 14 years next preceding the passage of this Act, with claim of
 15 ownership, but without color of title.

16 SEC. 5. The plea of such limitations, successfully main-
 17 tained, shall entitle the claimants so pleading to a decree in
 18 favor of them, their heirs, executors, successors, and assigns
 19 for the premises so claimed by them, respectively, or so much
 20 thereof as may be thus established, which shall have the effect
 21 of a deed of quitclaim as against the United States and said
 22 Indians, and a decree in favor of claimants upon any other
 23 ground shall have a like effect.

24 The United States may plead with like effect in favor of
 25 the pueblo or any individual Indian thereof, as the case may
 26 be, the said limitations hereinbefore defined.

1 SEC. 6. That all lands, the title to which is determined
 2 in said suit, or suits, shall where necessary, be surveyed and
 3 mapped under the direction of the Secretary of the Interior,
 4 at the expense of the United States, but such survey shall be
 5 subject to the approval of the judge of the United States dis-
 6 trict court and if approved by said judge shall be filed in
 7 said court and become a part of the decree, or decrees,
 8 entered in said district court.

9 SEC. 7. That necessary costs in all original proceedings
 10 under this Act, to be determined by the court, shall be taxed
 11 against the United States, and any party aggrieved by any
 12 final judgment or decree shall have the right to a review
 13 thereof by appeal or writ of error or other process, as in
 14 other cases, but upon such appeal being taken each party
 15 shall pay his own costs.

16 SEC. 8. That in the sense in which used in this Act, the
 17 word "purchase" shall be taken to mean the acquisition of
 18 community lands by the Indians other than by grant or
 19 donation from a sovereign.

20 SEC. 9. That any person not impleaded in any such
 21 action, and claiming any interest in the premises involved,
 22 may be made a party defendant thereto, or may intervene
 23 in such action, setting up his claim in usual form.

24 SEC. 10. That as to all lands within the exterior bounda-
 25 ries of any lands granted or confirmed to the Pueblo Indians

1 of New Mexico, by any authority of the United States of
2 America, or acquired by said Indians as a community by
3 purchase or otherwise and which have not been claimed for
4 said Indians by the findings and report of the board as herein
5 provided, the Secretary of the Interior shall cause notice
6 to be published in some newspaper or newspapers of gen-
7 eral circulation issued, if any there be, in the county in
8 which the said lands, or some part of them are located,
9 otherwise in some newspaper or newspapers of general cir-
10 culation published nearest to such lands, once a week for
11 five successive weeks, setting forth as nearly as may be
12 the names of claimants of land holdings within said exterior
13 boundaries and not embraced within the lands claimed
14 for said Indians as aforesaid, with a description of such
15 several holdings as shown by a survey of Pueblo Indian
16 lands heretofore made under the direction of the Secretary
17 of the Interior, and commonly known as the Joy Survey,
18 or as may be otherwise shown, and requiring that any per-
19 son or persons claiming such described parcel or parcels of
20 land adversely to the apparent claimant or claimants so
21 named as aforesaid, or their heirs or assigns, shall, on or be-
22 fore the thirtieth day after the last publication of such notice
23 file his or their adverse claim in the United States land office
24 in the land district wherein such parcel or parcels of land
25 are situate, in the nature of a contest, stating the nature

1 and basis of such adverse claim, and notice of such contest
2 shall be served upon the claimant or claimants named in the
3 said notice, in the same manner as in cases of contest of
4 homestead entries; if no such contest is instituted as afore-
5 said, the Secretary of the Interior shall issue to the claimant
6 or claimants named in the said notice a patent or other cer-
7 tificate of title for the parcel or parcels of land so described
8 in the said notice; but if a contest be filed, it shall proceed
9 and be heard and decided as contests of homestead entries are
10 heard and decided, under the rules and regulations of the
11 General Land Office pertinent thereto. Upon such contest
12 either party may claim the benefit of the provisions of section
13 4 of this Act, to the same effect as if he were a party to a suit
14 to quiet title brought under the provisions hereof, and the suc-
15 cessful party shall receive a patent or certificate of title.
16 Any patent or certificate of title issued to non-Indian claim-
17 ants under the provisions of this Act shall have the effect
18 only of a relinquishment of title by the United States of
19 America and the said Indians and shall not affect the adverse
20 rights of any other party or parties whatsoever. If the
21 names of the claimants of such parcel or parcels of land are
22 unknown, and after such notice more than one person or
23 group of persons united in interest makes claim in such land
24 office adversely to each other, the register and receiver shall
25 require them to set forth in writing the nature of their re-

1 spective claims, and thereupon the said claims shall be heard
2 and decided as if they were made in a contest in the first
3 instance. All patents or certificates of title which may be
4 issued in accordance with this Act shall be in such form as
5 to convey the title of the United States and said Indians to
6 the grantee, naming him, and to his heirs and legal repre-
7 sentatives.

8 SEC. 11. That if any non-Indian party to any such
9 suit shall assert against the Indian title a claim based upon a
10 Spanish or Mexican grant, and if the court should finally
11 find that such claim by the non-Indian is superior to that of
12 the Indian claim, no final decree or judgment of ouster of the
13 said Indians shall be entered or writ of possession or assist-
14 ance shall be allowed against said Indians, or any of them; or
15 against the United States of America acting in their behalf,
16 unless it shall be found that such non-Indian claimant shall
17 also be entitled to said land under the provisions of section 4
18 as herein provided. In such case the court shall ascertain the
19 area and value of the land thus held by any non-Indian
20 claimant under such superior title, excluding therefrom the
21 area and value of lots or parcels of land the title to which has
22 been found to be in other persons by adverse possession under
23 the provisions of this Act: *Provided, however,* That any find-
24 ings by the court under the provisions of this section may be
25 reviewed on appeal or writ of error at the instance of any

1 party aggrieved thereby, in the same manner, to the same
2 extent, and with like effect as if such findings were a final
3 judgment or decree. When such finding adverse to the
4 Indian claim has become final, the Secretary of the Interior
5 shall report to Congress the facts, including the area and value
6 of the land so adjudged against the Indian claim, with his
7 recommendations in the premises.

8 SEC. 12. That when any claimant, other than the
9 United States for said Indians, fails to sustain his claim to
10 any parcel of land within any Pueblo Indian grant, pur-
11 chase, or donation under the provisions of this Act, but
12 has held and occupied any such parcel in good faith, claim-
13 ing the same as his own, and the same has been improved,
14 the value of the improvements upon the said parcel of land
15 shall be found by the court, and reported by the Secretary
16 of the Interior to Congress with his request for appropria-
17 tions to pay such claimants for such improvements at the
18 valuation so found by the court.

19 SEC. 13. That if any land adjudged against any claim-
20 ant be situate among lands adjudicated or otherwise deter-
21 mined in favor of non-Indian claimants and apart from the
22 main body of the Indian land, and the Secretary of the In-
23 terior deems it to be for the best interest of the Indians that
24 such parcels so adjudged against the non-Indian claimant be
25 sold, he may, with the consent of the governing authorities

1 of the pueblo, order the sale thereof, under such regulations
2 as he may make, to the highest bidder for cash, and if the
3 buyer thereof be other than the losing claimant, the purchase
4 price shall be used in paying to such losing claimant the ad-
5 judicated value of the improvements aforesaid, if found un-
6 der the provisions of section 12 hereof, and the balance
7 thereof, if any, shall be paid over to the proper officer, or
8 officers, of the Indian community, but if the buyer be the
9 losing claimant, and the value of his improvements has been
10 adjudicated as aforesaid, such buyer shall be entitled to
11 have credit upon his bid for the value of such improvements
12 so adjudicated.

13 SEC. 14. That the pleading, practice, procedure, and
14 rules of evidence shall be the same in all causes arising under
15 this Act as in other civil causes in the Federal courts, except
16 as otherwise herein provided.

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By Mr. BURNUM.

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